

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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STATE FARM FIRE & CASUALTY COMPANY,
a/s/o ANDREW AND ELLEN ROSENGARD,

Plaintiff,

-against-

FLUIDMASTER, INC.,

Defendant.

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LINDSAY, Magistrate Judge:

ORDER

CV 12-0731 (ADS)(ARL)

Before the court is the defendant's letter motion dated November 6, 2012 seeking to compel plaintiff to (1) produce for depositions State Farm employees David Mitchell, Michelle Torok, and Debbie Slattery, and (2) produce the schedule of documents annexed to defendant's notices of deposition. Plaintiff opposes the application. For the reasons set forth below, the plaintiff's motion is granted, in part.

In this product liability subrogation matter, plaintiff State Farm Fire and Casualty Company ("State Farm") commenced this action alleging that a supply line coupling nut manufactured by defendant Fluidmaster Inc. ("Fluidmaster") malfunctioned causing water damage to the property of State Farm's insured, Andrew and Ellen Rosengard. Defendant's motion to produce David Mitchell, Michelle Torok and Debbie Slattery is denied. The three State Farm representatives that defendant seeks to depose were not involved in the investigation or adjustment of the claim at issue but rather even as described by the defendants were merely involved in coordinating a litigation strategy. Notably, despite plaintiff's offer to produce five State Farm representatives who have been identified as having first hand knowledge of this claim, the defendants have yet to seek those depositions. Should it be revealed that the three noticed individuals were more directly involved in the investigation or adjustment of this claim the application may be renewed. With regard to defendant's notice to produce the requested documents, with one exception, plaintiff has represented that it anticipates serving those responses within the next week. As to defendant's requested documentation related to Atlantic Professional Services, an expert who was not retained by State Farm on this claim, defendant's motion to produce this documentation is denied with leave to renew following its deposition of Raymond Downey, an investigator and adjuster of the claim.

Also before the court is the defendant's letter application dated September 24, 2012, requesting an extension of time to complete discovery. The application is granted, there being no objection. The scheduling order dated August 2, 2012 is amended as follows. The deadline for commencement of motion practice for joinder of additional parties or amendment of pleadings is not extended. The deadline to complete all discovery, inclusive of expert discovery, is extended to January 31, 2013. Any party planning on making a dispositive motion must take the first step

in the motion process by February 14, 2013. A final conference is scheduled before the undersigned on February 28, 2013 at 2:00 p.m. The parties are to electronically file a joint proposed pretrial order in compliance with the district judge's individual rules, signed by counsel for each party, prior to the conference.

Dated: Central Islip, New York
November 14, 2011

SO ORDERED:

_____/s/_____
ARLENE ROSARIO LINDSAY
United States Magistrate Judge